

IN THE SUPREME COURT OF MISSOURI

SC94493

MISSOURI MUNICIPAL LEAGUE,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

Appeal from the Circuit Court of Cole County, Missouri

Division Number 1

The Honorable Jon E. Beetem, Presiding

BRIEF OF APPELLANT MISSOURI MUNICIPAL LEAGUE

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JURISDICTIONAL STATEMENT

This case concerns the constitutional validity of amendments made to Mo. Rev. Stat. §302.341 during the 2013 legislative session. On July 10, 2013, Governor Nixon signed into law a revised, Truly Agreed and Finally Passed version of HB 103 ("HB103"), which became effective on August 28, 2013. HB103, among other things: (1) imposes a new requirement on cities, towns, villages, and counties (collectively "municipalities") to separately account for traffic revenue in their annual financial report filed with the State Auditor pursuant to Mo. Rev. Stat. §105.145; (2) attempts to reduce the percentage of traffic violation revenue that a municipality may receive from 35% to 30%;¹ (3) changes what traffic-related revenue is subject to the 30% cap; and (4) authorizes the immediate loss of municipal traffic court jurisdiction if a municipality does not file an accurate or timely financial report, transmit money on an approved timetable, or otherwise violates the requirements of 302.341.2 RSMo.

On September 19, 2013, MML filed a Petition for Declaratory Judgment and Injunctive Relief, contending that §302.341.2, as amended by HB103, violates Missouri Constitution Articles I, II, III and V and is unenforceable. The State denies MML's allegations. The parties filed cross motions for judgment on the pleadings, and the Circuit Court of Cole County granted the State's motion, denied MML's motion and

¹ Any fines collected in excess of thirty percent are sent to the Director of the Department of Revenue and dispersed to a county's schools as required by §302.341.2. MO. REV. STAT. §302.341.2 (2014).

entered judgment on July 25, 2014. That Judgment became final on August 24, 2014, upholding the legality of HB103. MO. R. CIV. P. 81.05(a)(1) (2014).

Article V, §3 of the Missouri Constitution provides, in pertinent part: "The supreme court shall have exclusive appellate jurisdiction in all cases involving the validity of . . . a statute" (App. at p. A18, MO. CONST. ART. V, §3 (2014).) Accordingly, under Article V, §3 of the Missouri Constitution and the facts of this case, exclusive jurisdiction rests with the Missouri Supreme Court. *See, e.g., Styles v. State of Missouri*, 877 S.W.2d 113, 114 (Mo. 1994) ("As this case concerns the validity of a statute of this state, this Court has exclusive jurisdiction."); *Belcher v. State of Missouri*, 364 S.W.3d 658, 665 (Mo. Ct. App. 2012) ("Pursuant to article V, section 3 of the Missouri Constitution, the Missouri Supreme Court has exclusive jurisdiction in cases involving the validity of a statute."); *AG Processing, Inc. v. South St. Joseph Indus. Sewer Dist.*, 937 S.W.2d 319, 322 (Mo. Ct. App. 1997) ("Generally, where a case involves the constitutional validity of a state statute, the court of appeals does not have jurisdiction of the appeal.")

STATEMENT OF FACTS

I. THE PARTIES

Appellant Missouri Municipal League ("MML") is a statewide association whose members include cities, towns, villages and municipalities (collectively "municipalities"). (L.F.006 & L.F.116.) MML's purpose includes advocating for fair, reasonable and constitutional regulation of Missouri municipalities. (Id.) Because MML's members will be directly and adversely affected by the enforcement of §302.341.2, as amended by House Bill 103 ("HB103"), MML has associational standing to bring this appeal. (L.F.147.)²

Respondent State of Missouri ("State") is the proper respondent in this case because MML challenges the constitutionality of a statute and no state official is specifically charged with the enforcement of §302.341.2 as it relates to depriving municipal courts of jurisdiction to hear traffic-related offenses. (L.F.006 & L.F.076.)

² The Circuit Court of Cole County determined that MML has standing because "[t]here is little doubt that the members of MML would be directly and adversely affected by this litigation." (L.F.147.) The State of Missouri did not appeal this ruling.

II. THE ENACTMENT OF MACKS CREEK LAW

Since 1991, Missouri's municipalities have been required to file an annual financial report with the State Auditor. (App. at p. A1, MO. REV. STAT. §105.145.2-3 (2014).) Until HB103's passage in 2013, no law or regulation required a municipality to separately account for the percentage of general operating revenue generated by traffic violations. Nor was there any penalty in §105.145 (or any other law) for failing to submit an annual financial report. Prior to 2013, Missouri municipalities routinely complied with §105.145 by submitting annual financial statements to the State Auditor.

In 1999, the General Assembly enacted what is now commonly referred to as Macks Creek Law. (Id. at p. __, MO. REV. STAT. §302.341 (1999).) Pursuant to the original statute, municipalities who generated more than 45% of their total annual revenue from traffic violations occurring on state highways were required to remit that excess revenue to the Department of Revenue ("DOR"). (Id.) DOR then distributed those funds to schools in the municipality's county. (Id.) The initial version of Macks Creek Law did not define "traffic violation" or "total annual revenue." Moreover, neither the law nor any regulation instructed municipalities how to calculate compliance with the 45% cap, or explained how that calculation would be evaluated by DOR or the State Auditor. (Id.) Lastly, the original statute did not contain any penalty for a municipality's failure to comply. (Id.)

III. THE 2009 AMENDMENT TO MACKS CREEK LAW

Macks Creek Law was amended in 2009. The 2009 amendment: (1) reduced the traffic violation revenue cap from 45% to 35%; (2) empowered DOR to promulgate rules for remitting excess traffic revenue to the Department; (3) mandated that compliance with the cap be calculated using "general operating revenue," as opposed to "total annual revenue"; and (4) allowed any affected municipality to dispute an excess revenue determination by submitting to an audit by the State Auditor. (Id. at p. __, MO. REV. STAT. §302.341.2 (2009).) Unfortunately, the 2009 amendment did not remedy the original statute's shortcomings.

For example, the 2009 version of Macks Creek Law failed to supply the definitions missing from the original statute or define "general operating revenue." (Id.) The amendment also failed to provide instructions on how to calculate cap compliance or explain how the State would make excess revenue determinations. (Id.) These implementation blanks were not filled in by regulations. In fact, DOR did not promulgate a single regulation related to §302.341.2 between 2009 and 2014. And the 2009 version of Macks Creek Law—like the versions before it—did not enact a statutory penalty for failure to file a financial report. (Id.)

IV. THE 2013 AMENDMENT TO MACKS CREEK LAW BY HB103

Then, in 2013, the General Assembly passed HB103 and once again amended Macks Creek Law. (L.F.016-L.F.069.) Under this latest iteration of §302.341.2:

If any [municipality] receives more than thirty percent of its annual general operating revenue from fines and court costs for traffic violations, including amended charges from any traffic violation, occurring within the [municipality], all revenues from such violations in excess of thirty percent of the annual general operating revenue of the [municipality] shall be sent to [DOR] and shall be distributed annually to the schools of the county . . .³

(L.F.023 & App. at p. A3.) Additionally, HB103 now requires municipalities to separately account for the percentage of general operating revenue generated by traffic violations:

An accounting of the percent of annual general operating revenue from fines and court costs for traffic violations, including amended charges from any charged traffic violations, occurring within the [municipality] and charged in the municipal court of that [municipality] shall be included in the comprehensive annual financial report submitted to the state auditor by the [municipality] under section 105.145.

³ MML does not challenge HB103's reduction of the traffic violation revenue cap from 35% to 30%.

(Id.) Most troubling, however, the 2013 version of Macks Creek Law contains a draconian (and unconstitutional) statutory penalty for an alleged failure to comply with §302.341.2:

Any [municipality] which fails to make an accurate or timely report, or to send excess revenues from such violations to the director of the [DOR] by the date on which the report is due to the state auditor shall suffer an immediate loss of jurisdiction of the municipal court of said [municipality] on all traffic-related charges until all requirements of this section are satisfied.

(L.F.023-L.F.024.) Thus, the 2013 version of Macks Creek Law enacts three significant changes: (1) the traffic revenue cap applies to *all* traffic violations, including "amended charges," not just violations occurring on state highways; (2) municipalities must separately account in their financial reporting for the percentage of annual general operating revenue attributable to this newly expanded definition of traffic violations; and (3) municipalities who fail to comply with §302.341.2 will suffer an immediate and automatic loss of municipal traffic court jurisdiction. (Id.)

After HB103 was enacted (and MML filed this lawsuit), DOR promulgated a single regulation. This regulation dictates how municipalities should remit excess traffic

violation revenue to the Department. (App. at p. A7, 12 C.S.R. 10-44.100 (2014).) The State Auditor has never promulgated any regulations related to amended §302.341.2.⁴

The statute's inherent vagueness, combined with the total lack of any implementing regulations, leaves municipalities with no idea how to properly comply with the latest version of Macks Creek Law. There is no law or regulation defining "general operating revenue," "traffic violations," "traffic-related charges" or "amended charges." There is no law or regulation explaining how municipalities should calculate the percentage of revenue generated by violations. There is no law or regulation describing how municipalities should "account for" such revenue. There is no law or regulation describing how cap compliance is calculated during an audit. In short, there is no law or regulation actually instructing municipalities how to comply with amended §302.341.2.

Moreover, despite imposing an entirely new (and unconstitutional) penalty for non-compliance with §302.341.2, neither HB103 nor any subsequent regulations provide guidance on what happens when a municipal court loses jurisdiction to hear "all traffic-related charges." Vital but unanswered questions include:

⁴ Notably, before HB103 was enacted, the State Auditor did promulgate regulations dictating how to comply with §105.145. (App. at p. A8, 15 C.S.R. 40-3.030.) The Auditor is therefore aware of the obligation to provide guidance to municipalities through implementing regulations enacted pursuant to the Administrative Procedure Act. (*See* MO. REV. STAT. CH. 536 (2014).)

- whether a traffic violation issued but not heard before a municipal court loses jurisdiction is null and void;
- what other court, if any, should hear traffic-related violations if the municipal court loses jurisdiction;
- whether violations issued, fines imposed and/or jail time ordered during a time period when a municipality is arguably non-compliant with §302.341.2 are enforceable at all;⁵
- if fines are collected by the substitute court, who receives that revenue (for example, is it returned to the municipality where the violation was issued, or is it given to the county or the state); and
- what happens to violations issued during a loss of jurisdiction, but set for hearing after jurisdiction is reinstated?

⁵ This question is posed by another, recently-filed lawsuit based on the 2013 changes to Macks Creek Law, *Pruett, et al. v. The Vill. of Bel-Ridge, et al.* (App. at pp. A57-A69.) Briefly, this putative class action alleges that all traffic violations issued and adjudicated by Bel-Ridge during the time period it allegedly failed to comply with amended §302.341.2 are invalid because the municipal court acted without jurisdiction. (Id.) The petition seeks an injunction against the municipal court's further handling of traffic violations, the release of anyone imprisoned for a traffic violation and the disgorgement of all fines paid during the relevant time period for traffic-related offenses, along with attorneys' fees and expenses. (Id. at p. A67-A68.)

Each of these questions raises a very real concern about the actual implementation of HB103, but no answers are found in the statute or Missouri's Code of State Regulations.

V. THE PRESENT LAWSUIT

When HB103 took effect on August 28, 2013, Missouri's municipalities immediately recognized that amended §302.341.2 raised significant constitutional, public safety, legal and logistical questions, not least of which is the threat that implementing HB103 could grind municipal enforcement to a halt while alleged violations of §302.341.2 are investigated and adjudicated. Consequently, on September 19, 2013, less than one month after HB103's enactment, MML filed its Petition for Declaratory Judgment and Injunctive Relief ("Petition") against the State in the Circuit Court of Cole County, Missouri. (L.F.005-L.F.073.)

MML's Petition seeks: (1) a declaratory judgment that §302.341.2, as amended by HB103, is unconstitutional under Missouri Constitution Article V, §§ 5, 23 and 27(2)(d), Article II, §1 and Article I, §14 (Count I); (2) a declaratory judgment that HB103 was unconstitutionally enacted in violation of Missouri Constitution Article III, §21 (Count II); and (3) a declaratory judgment that HB103 was unconstitutionally enacted in violation of Missouri Constitution Article III, §23 (Count III). (Id.) MML also originally requested an injunction preventing the enforcement of amended §302.341.2, but this claim was abandoned after the State agreed to voluntarily stay enforcement of HB103's statutory penalty until this case was resolved.⁶ (Id. at pp. L.F.014-L.F.015.) MML's

⁶ The circumstances surrounding the Stay Order entered by the Circuit Court of Cole County, and the enforceability of that Order during this appeal, were the subject of MML's Motion to Stay Enforcement of Missouri Statute §302.341.2, as Amended by

members relied upon the State's representation that amended §302.341.2 would not be enforced while this lawsuit was pending.⁷ The State filed its Answer on November 7, 2013, and denies MML's allegations. (L.F.074-L.F.093.)

On December 13, 2013, MML filed its Motion for Judgment on the Pleadings, asserting §302.341.2, as amended by HB103, was unconstitutional for the reasons described above. (L.F.094-L.F.012.) The State opposed MML's motion and filed its own Motion for Judgment on the Pleadings on February 28, 2014. (L.F.130-L.F.145.) On July 25, 2014, the Circuit Court granted the State's Motion and entered judgment in its favor and against MML. (L.F.146-L.F.0150.) The Circuit Court's judgment became final

House Bill 103 (2013), filed with this Court on December 31, 2014. For the reasons stated in that Motion, enforcement of amended §302.341.2 should be stayed until this case is fully resolved on appeal.

⁷ One year after agreeing to stay enforcement of amended § 302.341.2, the State filed a Petition for Declaratory Relief & Preliminary & Permanent Injunction against 13 municipalities, including many of MML's members. (App. at pp. A70-A92.) Generally, the lawsuit alleges that defendant municipalities failed to submit annual financial reports, failed to properly account for and/or calculate the percentage of general operating revenue collected for traffic violations and/or failed to remit excess traffic violation revenue to DOR. (Id.) The State seeks a declaratory judgment that the defendants' municipal courts have no jurisdiction to hear traffic-related cases and an injunction prohibiting those municipal courts from adjudicating such offenses. (Id. at p. A89-A92.)

on August 24, 2014, Mo. R. Civ. P. 81.05(a)(1) (2014), and MML filed its Notice of Appeal on September 3, 2014. (L.F.151-L.F.166.)

VI. MUNICIPAL REGULATION IN THE WAKE OF EVENTS IN FERGUSON, MISSOURI

After this lawsuit was filed, events in Ferguson, Missouri and throughout the St. Louis region made the operation and regulation of municipal courts a highly politicized issue. The spotlight shining on municipalities generally, and municipal courts particularly, cannot be ignored. But political expediency should not trump the orderly and constitutional administration of justice. Citizens and municipalities throughout Missouri will pay the price if HB103's vague, unregulated and unconstitutional provisions are enacted. As it stands now, HB103 has unleashed a plethora of regulations, agency action, lawsuits, rules and legislation that only highlight the legal and logistical shortcomings of the bill.

Since this lawsuit's inception, the following actions have occurred:

- DOR promulgated a rule dictating how municipalities should remit excess traffic violation revenue to the Department (App. at p. A7, 12 C.S.R. 10-44.100 (2014));
- State Auditor Tom Schweich announced he will audit the municipal courts in Ferguson, Bella Villa, Pine Lawn, St. Ann, Foristell, Foley and Winfield to see if those municipalities are abiding by Mack's Creek Law;⁸

⁸See <http://news.stlpublicradio.org/post/schweich-launches-audits-municipal-courts-ferguson-and-six-other-area-cities>.

- Attorney General Chris Koster filed suit against municipalities for failing to abide by amended §302.341.2 despite a pledge to stay such enforcement during the pendency of this case (*see* n. 7, *supra*);
- a group of citizens sued the Village of Bel-Ridge alleging that all traffic violations issued and adjudicated by the Village during the time period it allegedly failed to comply with amended §302.341.2 are invalid because the municipal court acted without jurisdiction (*see* n. 5, *supra*);
- This Court amended Supreme Court Rule 37.65 to provide that when "it appears to the judge that the defendant does not have at that time the present means to pay [a] fine, the judge shall order a stay of execution on the payment of the fine" and give the defendant additional time to pay or allow payment on an installment basis (App. at p. A54, Am. Rule 37.65);
- Senator Eric Schmitt pre-filed a bill for the upcoming legislative session that would reduce the cap on a municipality's traffic violation revenue from 30% to 10%;⁹ and
- Representative Robert Cornejo introduced House Bill 278, which would provide a definition of "annual general operating revenue" in §302.341.2.¹⁰

Taken together, these responses demonstrate that no one has a clear picture of how amended §302.341.2 should function. Every branch of government has reacted in its own way, some properly (like this Court's use of its power to regulate procedure in municipal

⁹ *See* <http://news.stlpublicradio.org/post/schmitt-files-bill-lowering-how-much-cities-can-make-traffic-tickets>.

¹⁰ *See* <http://www.house.mo.gov/billsummary.aspx?bill=HB278&year=2015&code=R>.

courts) and some improperly (like the Attorney General's attempt to enforce a law whose constitutionality is still an open question). But the end result of these uncoordinated efforts is a chaotic mess that leaves municipalities with no clearer view of how to comply with HB103. Surely the better course is allowing Missouri's General Assembly, Supreme Court, executive agencies and concerned stakeholders to thoughtfully and thoroughly debate what happens next and enact a constitutionally sound solution that better serves the citizens of Missouri and their municipalities.

POINTS RELIED ON

- I. THE TRIAL COURT ERRED IN HOLDING THAT MISSOURI REVISED STATUTE §302.341.2, AS AMENDED BY HOUSE BILL 103 (2013), IS CONSTITUTIONAL BECAUSE THE STATUTE VIOLATES THE SEPARATION OF POWERS DOCTRINE BY IMPERMISSIBLY INFRINGING UPON MUNICIPAL COURT JURISDICTION AND THE RIGHT OF THE MISSOURI SUPREME COURT TO REGULATE PRACTICE AND PROCEDURE IN LOWER COURTS.**

J.C.W. ex rel. Webb v. Wyciskalla, 275 S.W.3d 249 (Mo. banc 2009)

Kilmer v. Mun, 17 S.W.3d 545 (Mo. banc 2000)

State Auditor v. Joint Comm. on Legislative Research, 956 S.W.2d 228 (Mo. banc 1997)

State ex rel. Lebeau v. Kelly, 697 S.W.2d 312 (Mo. Ct. App. 1985)

MO. CONST. ART. II, §1

MO. CONST. ART. V, § 5

MO. CONST. ART. V, §23

MO. CONST. ART. V, §27(2)(d)

MO. SUP. CT. R. 37

II. THE TRIAL COURT ERRED IN HOLDING THAT MISSOURI REVISED STATUTE §302.341.2, AS AMENDED BY HOUSE BILL 103 (2013), IS CONSTITUTIONAL BECAUSE THE STATUTE VIOLATES THE OPEN COURTS PROVISION ESTABLISHED IN ARTICLE I, §14 OF THE MISSOURI CONSTITUTION IN THAT IT LEAVES MUNICIPALITIES WITH NO COURT TO PROSECUTE TRAFFIC VIOLATIONS.

Bromwell v. Nixon, 361 S.W.3d 399 (Mo. banc 2012)

J.C.W. ex rel. Webb v. Wyciskalla, 275 S.W.3d 249 (Mo. banc 2009)

Kilmer v. Mun, 17 S.W.3d 545 (Mo. banc 2000)

City of Chesterfield v. Deshelter Homes, 938 S.W.2d 671, 674 (Mo. Ct. App. 1997)

MO. CONST. ART. I, §14

III. THE TRIAL COURT ERRED IN HOLDING THAT HOUSE BILL 103 (2013) IS CONSTITUTIONAL BECAUSE IT VIOLATES ARTICLE III, §21 OF THE MISSOURI CONSTITUTION IN THAT THE STATUTE'S ORIGINAL PURPOSE WAS CHANGED THROUGH AMENDMENT.

Legends Bank v. State of Missouri, 361 S.W.3d 383 (Mo. banc 2012)

Rizzo v. State, 189 S.W.3d 576, 580 (Mo. banc 2006)

MO. CONST. ART. III, §21

IV. THE TRIAL COURT ERRED IN HOLDING THAT HOUSE BILL 103 (2013) IS CONSTITUTIONAL BECAUSE IT VIOLATES ARTICLE III, §23 OF THE MISSOURI CONSTITUTION IN THAT THE STATUTE DOES NOT RELATE TO A SINGLE SUBJECT, DESCRIBED BY A CLEAR TITLE.

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State of Missouri v. Salter, 250 S.W.3d 705 (Mo. banc 2008)

Rizzo v. State, 189 S.W.3d 576, 580 (Mo. banc 2006)

Hammerschmidt v. Boone County, 877 S.W.2d 98 (Mo. banc 1994)

MO. CONST. ART. III, §23

ARGUMENT

I. THE STANDARD OF REVIEW FOR THIS APPEAL IS *DE NOVO*.

This Court "reviews the constitutional validity of a statute *de novo*." *Beard v. Missouri State Employees' Retirement Sys.*, 379 S.W.3d 167, 170 (Mo. banc 2012). "The party claiming that the statute is unconstitutional bears the burden of proof." *Sanders v. Ahmed*, 364 S.W.3d 195, 202 (Mo. banc 2012). "Nonetheless, if a statute conflicts with a constitutional provision or provisions, this Court must hold the statute invalid." *State ex rel. Nixon v. Kinder*, 89 S.W.3d 454, 459 (Mo. banc 2002). *See also State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 516 (Mo. banc 1991).

II. THE TRIAL COURT ERRED IN HOLDING THAT MISSOURI REVISED STATUTE §302.341.2, AS AMENDED BY HOUSE BILL 103 (2013), IS CONSTITUTIONAL BECAUSE THE STATUTE VIOLATES THE SEPARATION OF POWERS DOCTRINE BY IMPERMISSIBLY INFRINGING UPON MUNICIPAL COURT JURISDICTION AND THE RIGHT OF THE MISSOURI SUPREME COURT TO REGULATE PRACTICE AND PROCEDURE IN LOWER COURTS.

A. The Separation of Powers Doctrine Prohibits Legislative Interference with the Judiciary's Constitutionally Assigned Powers and Powers Properly Entrusted to the Judicial Branch.

Article II, §1 of the Missouri Constitution states:

The powers of government shall be divided into three distinct departments—the legislative, executive and judicial—each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances in this constitution expressly directed or permitted.

(App. at p. A12, MO. CONST. ART. II, §1 (2014).) This Court recognizes that "the separation of powers of government into three distinct departments is, as oft stated, 'vital to our form of government.'" *State Auditor v. Joint Comm. on Legislative Research*, 956 S.W.2d 228, 231 (Mo. banc 1997) (quoting *State on Information of Danforth v. Banks*,

454 S.W.2d 498, 500 (Mo. banc 1971)). Accordingly, no department is empowered to infringe upon the exclusive province of the others. This infringement generally occurs in one of two ways: "One branch may interfere impermissibly with the other's performance of its constitutionally assigned power," or "[a]lternatively, the doctrine may be violated when one branch assumes a [power] that more properly is entrusted to another." *Id.*

The *State Auditor* case provides helpful guidance regarding the doctrine's application. There, the issue was whether the legislature was empowered to audit an executive agency pursuant to statute. *State Auditor*, 956 S.W.2d at 230. The Auditor filed a declaratory judgment action, arguing in part that the disputed statute violated the separation of powers doctrine. *Id.* The Court recognized that "functional lines between the two political departments are not hard, impenetrable ones [because] there is a necessary overlap between the *functions* of the departments of government." *Id.* at 231 (emphasis in original). Still, the Court reaffirmed that "the constitution does not permit one department to exercise the *powers* reserved for the other." *Id.* (emphasis in original).

Turning to the statute, the Court noted that the audit authorized by statute "go[es] beyond obtaining financial information to offering opinions about the manner in which an agency conducts its business." *Id.* at 233. The Court rejected this level of encroachment on another branch of government: "Just as it is not the business of the auditor to manage other executive agencies, it is not the business of the legislative branch to operate executive agencies." *Id.* Particularly troubling for the Court—and particularly relevant here—was the statute's vagueness:

[T]he power to post-audit against a standard no more carefully circumscribed than 'economical and efficiency' permits the legislature to interfere with the administrative decisions of co-equal branches of government. This is the sort of impermissible interference [into] a co-equal branch's performance of its constitutional duties against which the separation of powers doctrine is designed to guard and precisely the complicated and indirect legislative 'encroachment' against which Madison warned . . .

'The legislative department derives a superiority in our government[] from other circumstances. Its constitutional powers being at once more extensive, and less susceptible of precise limits, it can with greater facility, mask, under complicated and indirect measure, the encroachments which it makes on the coordinate departments.'

Id. (quoting The Federalist No. 48 at 230 (J. Madison)). Based on this analysis, the Court concluded that the law was improperly "designed to manage, control and supervise executive decisions directly" and therefore violated the separation of powers doctrine. *Id.*

State Auditor is relevant here because amended §302.341.2 represents the same sort of legislative encroachment the Court rejected in that case. Here, as there, the General Assembly is attempting to enforce a vague statute that grants the legislature unregulated (and thus unlimited) power "to interfere with the administrative decisions of [a] co-equal branch[] of government," the judiciary. *Id.* Here, as there, the General

Assembly has gone beyond its single power to legislate and is instead trying to dictate how the court system "conducts its business" by mandating who has jurisdiction to hear traffic-related charges. *Id.* at 230 & 233. Essentially, HB103 puts the judiciary in the position of one day having jurisdiction to hear traffic violations, and the next day having that jurisdiction stripped away. Just as the *State Auditor* Court rejected the General Assembly's attempt to control executive agency operations, this Court should reject the legislature's attempt to dictate the jurisdiction and operation of Missouri's municipal courts.

B. Amended §302.341.2 Violates the Separation of Powers Doctrine Because It Impermissibly Interferes With the Jurisdiction of Municipal Courts Established in Missouri Constitution Article V, §§ 23 and 27(2)(d).

The jurisdiction of municipal courts in Missouri derives from the Constitution. Article V, §1 provides that the "judicial power of the state shall be vested in a supreme court, a court of appeals consisting of districts as prescribed by law, and circuit courts." (App. at p. A17, MO. CONST. ART. V, §1 (2014).) Article V, §27(2)(d) dictates that the "jurisdiction of municipal courts shall be transferred to the circuit court of the circuit in which such municipality . . . shall be located and, *such courts shall become divisions of the circuit court.*" (App. at p. A32, MO. CONST. ART. V, §27(2)(d) (2014) (emphasis added).) *See also State ex rel. Lebeau v. Kelly*, 697 S.W.2d 312, 314 (Mo. Ct. App. 1985) ("Mo. Const. Art. V, §27(2)(d) transferred jurisdiction of the municipal courts to the circuit court and made them divisions of circuit court.") Article V, §14 states that the

"circuit courts shall have original jurisdiction over all cases and matters, civil and criminal." MO. (App. at p. A30, CONST. ART. V, §14 (2014).) And Article V, §23 instructs that a "municipal judge shall hear and determine violations of municipal ordinances in one or more municipalities." (App. at p. A31, MO. CONST. ART. V, §23 (2014).)

Taken together, these provisions demonstrate that the municipal courts—as divisions of the circuit court—are constitutionally created courts whose jurisdiction is dictated by Article V, not the General Assembly. This Court recently addressed the importance of this distinction in *J.C.W. ex rel. Webb v. Wyciskalla*:

In the federal courts, unlike Missouri, subject matter jurisdiction is set forth in statutes passed within the authority granted to Congress . . . Thus, pursuant to this constitutional authority, Congress has the power to increase or decrease the kinds and categories of cases heard in federal court.

In contrast to the federal system, the subject matter jurisdiction of Missouri's courts is governed directly by the state's constitution. Article V, section 14 sets forth the subject matter jurisdiction of Missouri's circuit courts in plenary terms, providing that "[t]he circuit courts shall have original jurisdiction over all cases and matters, civil and criminal"

275 S.W.3d 249, 253 (Mo. banc 2009) (*quoting* Mo. Const. Art. V, § 14). *J.C.W.* went on to discourage legislative attempts to limit the courts' constitutionally-derived jurisdiction:

Elevating statutory restrictions to matters of "jurisdictional competence" erodes the constitutional boundary established by article V of the Missouri Constitution, as well as the separation of powers doctrine and robs the concept of subject matter jurisdiction of the clarity that the constitution provides.

Id. at 254. Thus, unlike Congress, the Missouri General Assembly is not empowered to alter—let alone eliminate—the plenary jurisdiction granted to Missouri's courts by the Constitution. Any legislative attempt to impose such restrictions should be treated with extreme caution because such statutes "erode the constitutional boundary" established by the separation of powers doctrine and Article V. *Id.* See also *Phelps Dodge Copper Prod. Corp. v. United Elec., Radio & Mach. Workers of Am., et al.*, 46 A.2d 453, 458-459 (N.J. Ch. 1946) (rejecting as unconstitutional law impairing court jurisdiction because "[t]o abolish the court . . . to impair its jurisdiction . . . [is] beyond legislative power, because that . . . jurisdiction, and authority form part of a body of law which, upon wise grounds, has been made immutable by any mere legislative act.")

HB103 "interfere[s] impermissibly with [the judiciary's] constitutionally assigned powers" by eliminating municipal court jurisdiction to hear traffic-related offenses. *State Auditor*, 956 S.W.2d at 231. The statute, like the law rejected in *State Auditor*, does so without the benefit of any specific statutory language or implementing regulations. This unresolved vagueness essentially grants the legislature and the executive branch, acting through DOR and/or the State Auditor, unlimited power to interfere with the jurisdiction and orderly administration of municipal courts. Even more unjust, HB103 deprives

municipal courts of jurisdiction based upon the actions—or inactions—of the non-judicial officials responsible for submitting the financial reports required by §105.145 and §302.341.2. The ability of Missouri's municipal courts to function is therefore held hostage by the General Assembly, executive agencies and non-judicial municipal officials. This completely thwarts the Missouri Constitution's grant of plenary jurisdiction to the courts.

Such an encroachment upon the jurisdiction of municipal courts cannot be permitted. *See, e.g., J.C.W. ex rel. Webb*, 275 S.W.3d at 257 ("the key to the courthouse door cannot be in the hands of an enforcement agency."); *Kilmer v. Mun*, 17 S.W.3d 545, 552-553 (Mo. banc 2000) (rejecting a law preconditioning a wrongful death action on a prosecutor's decision to seek a conviction under another statute.) Allowing this law to take effect would "erode[] the constitutional boundary established by article V of the Missouri Constitution, as well as the separation of powers doctrine" *Id.* at 254. Accordingly, this Court should hold that §302.341.2, as amended by HB103, violates the separation of powers doctrine by unconstitutionally infringing upon the jurisdiction of Missouri's municipal courts.

C. Amended §302.341.2 Violates the Separation of Powers Doctrine Because It Impermissibly Interferes With the Supreme Court's Right to Regulate Practice and Procedure in Lower Courts Under Missouri Constitution Article V, §5.

The separation of powers doctrine may also "be violated when one branch assumes a [power] . . . that more properly is entrusted to another." *State Auditor*, 956

S.W.2d at 231. *See also In the Matter of Grady*, 348 N.W.2d 559, 567 (Wis. 1984) ("Whatever administrative regulations the legislature imposed on courts of its own creation may not be constitutional when applied to constitutional courts.") Article V, §5 of the Missouri Constitution empowers the Supreme Court to "establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law." (App. at p. A28, MO. CONST. ART. V, §5 (2014).) The Supreme Court has asserted that power over Missouri's municipal courts by promulgating Supreme Court Rule 37. (App. at p. A40, MO. SUP. CT. R. 37.02 (2014).)

Rule 37 "governs the procedure in all courts of this state having original jurisdiction of ordinance violations and the disposition of any such violation in a violation bureau." (App. at p. A40, MO. SUP. CT. R. 37.01 (2014).) The Rule "shall be construed to secure the just, speedy and inexpensive determination of ordinance violations." (App. at p. A40, MO. SUP. CT. R. 37.03 (2014).) The Rule goes on to dictate how municipal courts adjudicate ordinance violations, including rules governing pleadings, warrants, evidence and trials. (*See, e.g.*, App. at p. A40-A54, MO. SUP. CT. R. 37.06-37.75 (2014).) Notably, the Supreme Court recently amended Rule 37.65 to give judges discretion in deciding how defendants pay fines—a change that will curtail the abusive use of fines against citizens of limited means. (App. at p. A55, AM. MO. SUP. CT. R. 37.65 (2014).) Taken as a whole, Rule 37 represents the Supreme Court's appropriate and comprehensive use of its rulemaking authority to ensure the orderly operation of Missouri's municipal courts.

Amended § 304.341.2, in contrast, is completely devoid of such guidance. Simply put, chaos will ensue if HB103's amendments are approved. Municipalities across the state will have to comply with a statute that provides no guidance on key terms and calculations. These same municipalities will then be subject to enforcement actions relying upon those undefined terms and calculations. Because DOR and the State Auditor's interpretation and application of §302.341.2 is essentially a mystery, municipalities will be unsure whether they have properly complied with the statute. For the same reason, municipalities will be uncertain whether or how to defend against enforcement actions. In short, every governmental actor impacted by HB103—municipalities, DOR, the Auditor and municipal judges—is left to develop its own interpretation of the law.

Meanwhile, municipal court defendants across the state will assert §302.341.2 as an affirmative defense, forcing municipal and circuit court judges to decide how to interpret the law and whether a municipality is in compliance with that statute—a situation rife with the possibility of inconsistent judgments. And, of course, municipal courts will be gaining and losing traffic court jurisdiction without any guidance whatsoever on how to handle traffic violations, fines and offenses occurring at any given moment during that process. Who will hear these violations, if anyone? Who will collect the revenue associated with them, if anyone? Who is entitled to that revenue, if anyone? What happens to violations that were issued and adjudicated during a period when the municipal court arguably lacked jurisdiction, if anything? All of these questions—which go to the most basic functions of municipal courts—are left unanswered.

It is difficult to envision a more disruptive example of legislative interference in the operation of the court system. But this scenario represents the unavoidable, even if unintended, consequences of the legislature's unconstitutional effort to dictate who should adjudicate municipal traffic violations, along with how and when. Clearly, amended §302.341.2 attempts to assume a power (the operation of courts handling municipal traffic violations) that is "more properly entrusted" to the judiciary. *State Auditor*, 956 S.W.2d at 231.

For these reasons, the Court should hold that §302.341.2, as amended by HB103, violates the Constitution's separation of powers doctrine by impermissibly interfering with a power better left with the judiciary, *i.e.*, the Supreme Court's authority to govern lower court practices and procedures under by Missouri Constitution Article V, §5.

III. THE TRIAL COURT ERRED IN HOLDING THAT MISSOURI REVISED STATUTE §302.341.2, AS AMENDED BY HOUSE BILL 103 (2013), IS CONSTITUTIONAL BECAUSE THE STATUTE VIOLATES THE OPEN COURTS PROVISION ESTABLISHED IN ARTICLE I, §14 OF THE MISSOURI CONSTITUTION IN THAT IT LEAVES MUNICIPALITIES WITH NO COURT TO PROSECUTE TRAFFIC VIOLATIONS.

Article I, §14 of the Missouri Constitution dictates: "That the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay." (App. at p. A10, MO. CONST. ART. I, §14 (2014).) Therefore, "[a] statute . . . may modify or abolish a cause of action that had been recognized by common law or by statute. But where a barrier is erected in seeking a remedy for a recognized injury, the question is whether it is arbitrary or unreasonable." *Kilmer*, 17 S.W.3d at 550. Accordingly, "statutes that impose procedural bars to access of the courts are unconstitutional." *Bromwell v. Nixon*, 361 S.W.3d 393, 399 (Mo. banc 2012). *See also Kilmer*, 17 S.W.3d at 548 ("article 1, section 14, applies against all impediments to fair judicial process, be they legislative or judicial in origin." (internal quotations omitted)).

Kilmer is a helpful example of how this Court evaluates whether legislation unconstitutionally bars the courthouse doors. There, the disputed statute was §537.053.3, which prohibited a wrongful death action against a liquor licensee who provided liquor to an intoxicated person unless that licensee was also criminally convicted for the same behavior under a separate statute. *Kilmer*, 17 S.W.3d at 545-546. The surviving heirs of

a man killed by a drunk driver alleged that §537.053.3 violated the open courts provision because it predicated their ability to file suit on whether the prosecutor charged the licensee. *Id.* at 546.

This Court agreed. *Id.* Reviewing the open court provision's history, the Court noted that it "has been strengthened twice since its adoption in our state's first constitution," and reasoned that "when the words 'ought' and 'should' are replaced with the word 'shall' it is difficult to escape the conclusion that our drafters changed a passage that could originally have been taken to be mere exhortation to a constitutional provision that is mandatory in tone and substance." *Id.* at 548. After analyzing prior open court decisions, the *Kilmer* Court concluded that "article I, section 14 prohibits any law that *arbitrarily or unreasonably* bars individuals or classes of individuals from accessing our courts in order to enforce *recognized* causes of action" *Id.* at 549 (internal quotations omitted) (emphasis in original). Consequently, "where a [statutory] barrier is erected in seeking a remedy for a recognized injury, the question is whether it is arbitrary or unreasonable." *Id.* at 550.

Turning to the disputed statute, the Court confirmed that §537.053.3 created an action for wrongful death against a liquor licensee who provided liquor to an obviously intoxicated person whose actions were the proximate cause of death. *Id.* But the Court further recognized that this right was conditioned on the licensee being criminally convicted for the same behavior. *Id.* Accordingly, the Court held the statute violated the open courts provision because "whether an injured party has a remedy under section 537.053 depends entirely upon the decision of the elected county prosecuting attorney,"

whose "decision may, of course, be vulnerable to the inevitable pressures of local politics or other factors unrelated to the merits" *Id.* at 552.

Thus an "open courts violation is established upon a showing that: (1) a party has a recognized cause of action; (2) that the cause of action is being restricted; and (3) the restriction is arbitrary or unreasonable." *Bromwell*, 361 S.W.3d at 399. And the lesson of *Kilmer* is that preconditioning the right to a remedy upon the actions of a third party qualifies as arbitrary and unreasonable. *Kilmer*, 17 S.W.3d at 553. Based on these precedents, amended §302.341.2 clearly violates the open courts provision.

First, municipalities have a recognized cause of action to enforce their own ordinances because "[i]t has long been held that proceedings in municipal courts for violations of municipal ordinances are civil actions to recover a debt due the city or to impose a penalty for the infraction." *City of Chesterfield v. Deshelter Homes, Inc.*, 938 S.W.2d 671, 674 (Mo. Ct. App. 1997).

Second, enactment of HB103's amendments to Macks Creek Law would restrict the municipalities' causes of action by depriving their municipal courts of jurisdiction over traffic violations. *Bromwell*, 361 S.W.3d at 399. Because neither amended §302.341.2 nor any implementing regulations explain what happens when a municipal court loses jurisdiction over "traffic-related charges," it is entirely possible that traffic violations issued by municipalities whose jurisdiction has been eliminated (or is even just being investigated) have nowhere to go. Stated differently, there is no guarantee through legislation or regulation that a municipality whose court is deprived of traffic jurisdiction can prosecute traffic violations in a different court. It is one thing to enact a law that

would force municipalities to disgorge fines, it is quite another to enact a law that leaves municipalities with no place to prosecute traffic violations. To put it bluntly, municipalities should not be forced to forego enforcement of traffic violations that are vital to public safety because of poorly drafted legislation.

Third, this restriction on access to municipal courts is arbitrary and unreasonable because the availability of municipal courts, or possibly any court, to hear a municipality's traffic cases is contingent upon the actions or inactions of non-judicial municipal officers, the legislature and executive agencies, including DOR and the State Auditor. *Bromwell*, 361 S.W.3d at 399. *See also J.C.W. ex rel. Webb*, 275 S.W.3d at 257 (rejecting law barring judicial relief based upon a finding of the division of child support because "the key to the courthouse door cannot be in the hands of an enforcement agency.") Like the statute struck down in *Kilmer*, amended §302.341.2 preconditions a municipality's right to a remedy upon the actions of third party officials or agencies whose decisions may "be vulnerable to inevitable pressures of local politics or other factors unrelated to the merits, yet wholly immune from review." *Kilmer*, 17 S.W.3d at 552.

Unlike *Kilmer*, however, a municipality's right to a remedy under HB103 is not subject to a single official's whim. Rather, the courthouse doors may be closed to a municipality's traffic-related offenses if: (1) non-judicial municipal officials fail to file a timely or accurate report under amended §302.341.2; (2) non-judicial municipal officials fail to properly calculate and/or account for the percentage of annual general operating revenue attributable to traffic violations; (3) non-judicial municipal officials fail to

properly remit excess traffic violation revenue to DOR; (4) DOR and/or the State Auditor determine a municipality has failed to comply with amended §302.341.2's reporting and/or remitting obligations; and/or (5) the Attorney General commences an enforcement action under amended §302.341.2.

Here, "the key to the courthouse door" is not only "in the hands of an enforcement agency," it is in the hands of municipal officers, legislators, agency employees and the Attorney General. *J.C.W. ex rel. Webb*, 275 S.W.3d at 257. The only person left standing on the courthouse steps is a municipality with a traffic violation to enforce. And since there is simply no answer to the question of what happens when municipal court jurisdiction is lost, municipalities face the very problem the open courts provision is designed to prevent—a right whose remedy lies behind closed courthouse doors.

For these reasons, amended §302.341.2 violates Article I, §14 of the Missouri Constitution and should be deemed unconstitutional by this Court.

IV. THE TRIAL COURT ERRED IN HOLDING THAT HOUSE BILL 103 (2013) IS CONSTITUTIONAL BECAUSE IT VIOLATES ARTICLE III, §21 OF THE MISSOURI CONSTITUTION IN THAT THE STATUTE'S ORIGINAL PURPOSE WAS CHANGED THROUGH AMENDMENT.

Article III, §21 states, in pertinent part: "No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose." (App. at p. A13, MO. CONST. ART. III, §21 (2014).) "Original purpose refers to the general purpose of the bill." *Legends Bank v. State of Missouri*, 361 S.W.3d 383, 386 (Mo. banc 2012). "The original purpose of a bill is established by the bill's earliest title and contents at the time the bill is introduced." *Id.* (internal quotations omitted). The original purpose requirement prohibits "the introduction of a matter that is not germane to the object of the legislation or that is unrelated to its original subject." *Id.*

"The first step in the original purpose analysis is to identify the original purpose." *Id.* When HB103 was first introduced, it was entitled "AN ACT To repeal sections 304.013, 304.032, and 304.034, RSMo, and to enact in lieu thereof three new sections relating to all-terrain and utility vehicle use in municipalities, with penalty provisions." (L.F.070-L.F.073.) So HB103's original purpose was limited and straightforward—regulating the use of all-terrain and utility vehicles (collectively "ATVs") in municipalities and punishing individuals who did not abide by the law.

"The second analytical step is to compare the original purpose with the final version of [the bill]." *Legends Bank*, 361 S.W.3d at 386. If the changes made during the legislative process are "not germane to the object of the legislation or [are] unrelated to

its original subject," then Article III, §21 is violated. *Id.* So, if HB103 as truly and finally passed, included subjects that are not germane to the regulation of ATVs in municipalities, then the law is unconstitutional.

Even a cursory inspection of the final HB103 reveals that a constitutional violation occurred here. (L.F.016-L.F.068.) The bill grew from three pages to a bloated 52 pages. (Id.) The title morphed from the concise statement quoted above to the following:

AN ACT To repeal sections 174.700, 174.703, 174.706, 301.301, 302.302, 302.341, 302.700, as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1402, merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 470, merged with conference committee substitute for house committee no. 2 for senate committee substitute for senate bill no. 480, merged with conference committee substitute for house committee substitute for senate bill no. 568, ninety-sixth general assembly, second regular session, 302.720, 302.735, 302.740, 302.755, 304.013, 304.032, 304.120, 304.180, 304.820, 307.400, 407.300, and 544.157, RSMo, and to enact in lieu thereof thirty-two new sections relating to transportation, with penalty provisions and an emergency clause for a certain section.

(L.F.016.) Most importantly, the substance of the bill expanded far beyond the scope of ATV regulation. For instance:

- the amendments made to §301.449 deal with when and under what circumstances an out-of-state institution of higher education may put its emblem on a license plate (L.F.019);
- the amendments to §302.700 alter and add definitions under the Uniform Commercial Driver's License Act (L.F.024-L.F.031);
- the amendments to §304.820 add prohibitions to using a cell phone or texting while operating a commercial motor vehicle (L.F.048);
- §§304.890 and 304.894 govern emergency response situations and provide that endangering an emergency responder is a punishable offense (L.F.049-L.F.051);
- the bill also authorizes the governor to sell, transfer, grant, convey, remise, release and forever quitclaim the State's interest in real property located in Taney, Andrew and Ozark County to the state highway and transportation commission (L.F.056-069); and
- §302.341.2 was amended as discussed in detail here (L.F.023-L.F.024).

These various amendments have nothing to do with HB103's original purpose of regulating "all-terrain and utility vehicle use in municipalities, with penalty provisions." (L.F.070-L.F.073.) MML anticipates the State will argue that these provisions all relate to HB103's original purpose because they fall under the umbrella of "transportation." But such an assertion "does more than stretch the umbrella—it breaks it." *Rizzo v. State*, 189 S.W.3d 576, 580 (Mo. banc 2006). By combining so many statutory amendments into a single bill, HB103 violates Missouri Constitution Article III, §23 and should be struck down by this Court.

V. THE TRIAL COURT ERRED IN HOLDING THAT HOUSE BILL 103 (2013) IS CONSTITUTIONAL BECAUSE IT VIOLATES ARTICLE III, §23 OF THE MISSOURI CONSTITUTION IN THAT THE STATUTE DOES NOT RELATE TO A SINGLE SUBJECT, DESCRIBED BY A CLEAR TITLE.

Article III, § 23 of the Constitution provides, in pertinent part: "No bill shall contain more than one subject which shall be clearly expressed in its title" (App. at p. A14, MO CONST. ART. III, §23 (2014).) This provision is a corollary to the "original purpose" provision found in Article III, §21. "Together, these constitutional provisions serve to facilitate orderly legislative procedure," by ensuring that "each bill can be better grasped and more intelligently discussed." *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 101 (Mo. banc 1994) (internal quotations omitted). Moreover, these provisions prevent "logrolling," *i.e.*, "the practice of combining a number of unrelated amendments in a bill, none of which alone could command a majority, but which, taken together, combine the votes of a sufficient number of legislators having a vital interest in one portion of the amended bill to muster a majority for its entirety." *Id.*

This Court has interpreted §23 to contain two distinct requirements, "the first prohibiting a bill containing more than one subject and the second requiring that the title to the bill clearly express that single subject." *Hammerschmidt*, 877 S.W.2d at 101 n.2. "A single 'subject' can include all matters that fall within or reasonably relate to the general core purpose of the proposed legislation. This subject is discerned, whenever possible, from the title of the bill." *Rizzo*, 189 S.W.3d at 579. "The dispositive question

is determining whether a bill contains more than one subject is whether all provisions of the bill fairly relate to the same subject, have a natural connection therewith, or are incidents or means to accomplish its purpose." *Legends Bank*, 361 S.W.3d at 390.

HB103 does not satisfy the "single subject" standard. One might presume or argue that the bill's intended subject is "transportation." (L.F.016.) But the topics of the bill are so far-flung, that subject is essentially meaningless. As described above, truly and finally passed HB103 covers ATV regulation (its original purpose), license plate emblems, commercial driver's license qualifications, emergency responder safety, land transfers to the highway department and municipal traffic revenue. Any argument that these provisions "relate to the same subject, have a natural connection . . . or are incidents or means to accomplish its purpose," strains credulity. *Legends Bank*, 361 S.W.3d at 390.

Moreover, HB103 lacks a clear title. "The purpose of the clear title requirement is to keep legislators and the public fairly apprised of the subject matter of pending laws." *State of Missouri v. Salter*, 250 S.W.3d 705, 709 (Mo. banc 2008). "This requirement is violated when the title is underinclusive or too broad and amorphous to be meaningful." *Id.*

Here, the bill's title completely fails to apprise the public of HB103's subject matter. No Missouri citizen would realize from the title alone that HB103 caps municipal traffic violation revenue, imposes a new financial reporting obligation on municipalities, eliminates municipal court traffic jurisdiction for a failure to comply with amended §302.341.2 and potentially leaves a municipality with no venue to prosecute traffic violations. The bill's title simply says: "To repeal section[] . . . 302.341 . . . and to enact

in lieu thereof thirty-two new sections relating to transportation, with penalty provisions and an emergency clause for a certain section." (L.F.016.) This title is not constitutionally adequate. *See, e.g., Phelps Dodge Copper Prod. Corp.*, 46 A.2d at 457-458 (rejecting bill as unconstitutional where title failed to apprise public that right to bring cause of action was being eliminated).

When HB103 is analyzed under Article III, §23's requirements, it is clear the bill is constitutionally deficient. Not only did the legislation's original purpose disappear during the session, *see* Section IV, *supra*, the final product encompasses multiple, unrelated subjects and fails to apprise legislators and the public of its implications. Accordingly, this Court should strike down HB103 as unconstitutional under Missouri Constitution Article III, §23.

CONCLUSION

Section 302.341.2, as amended by HB103, is unconstitutional. The statute violates the separation of powers doctrine by impermissibly limiting the jurisdiction of Missouri's municipal courts and the Supreme Court's right to regulate those courts. The statute violates the open courts provision because it leaves municipalities without a venue for prosecuting traffic offenses. HB103 itself violates the Constitution because the legislative process resulted in a bloated bill whose original purpose was lost, whose single subject was overwhelmed by unrelated amendments and whose title left Missourians unaware of the bill's far-reaching implications.

Following the events in Ferguson, Missouri and throughout the St. Louis region, there is no denying that the municipal court system has become a hot-button issue. The manner in which municipal courts operate is the subject of much debate and much emotion. Missouri's municipalities stand ready and willing to abide by thoughtful, practical and—most importantly—constitutional legislation passed by the General Assembly and implemented by the appropriate agencies. Substituting poorly drafted, completely unregulated and logistically unworkable laws for such legislation is not the answer. Neither Missouri's citizens nor its municipalities will be well-served by the chaotic system that is the unavoidable, if unintended, consequence of amended §302.341.2.

Accordingly, Appellant Missouri Municipal League respectfully asks this Court to declare Missouri Revised Statute §302.341.2, as amended by House Bill 103, unconstitutional.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that pursuant to Missouri Supreme Court Rule 84.06(c), this brief (1) contains the information required by Missouri Rule of Civil Procedure 55.03; (2) complies with the limitations in Missouri Rule of Civil Procedure 84.06(b) and contains 9,772 words, exclusive of the sections exempted by Rule 84.06(b), determined using the word count program in Microsoft Office Word 2007; and (3) the Microsoft Office Word 2007 version e-mailed to the parties of records has been scanned for viruses and is virus free.

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on this 16th day of January, 2015, a true and correct copy of Appellant's Brief and Appendix were served on the following party of record by eService through the Court's e-Filing System:

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